

EXCEPTIONS TO WITHHOLDING REQUIREMENT FOR NON-RESIDENT ALIENS



The Buyer of a US Property does not have to withhold Federal Taxes if:

The purchase price is no more than \$300,000 and the buyer has definite plans to reside in the property at least 50% of the time in the next 2 years. (i.e. not a rental property).

Note:

What is an "amount realized" for this purpose?

- The cash paid, or to be paid;
- The fair market value of the property transferred, or to be transferred, and
- The outstanding amount of any liability assumed by the transferee

PROCURING A INDIVIDUAL TAXPAYER ID NUMBER (ITIN)

1. What evidence must you submit to the IRS?

(a) an original passport; or (b) a certified copy of the passport.

2. What is a certified copy of the passport?

A copy certified by the non-resident alien's home country's consulate.

3. When will the IRS issue a Taxpayer ID number?

A Taxpayer ID number will be issued ONLY UPON THE OCCURANCE OF CERTAIN EVENTS SUCH AS:

- A. If they are completing an IRS Form 1040NR (the year after the sale of the house). They must attach the taxpayer return with the Form W-7.
- B. If they are attempting to avoid mandatory withholding on a rental property or the sale of a property. Seller should attach to the Form W-7:
 - A completed Form 8288-B, and
 - A copy of the sales contract (also, copies of Forms 8288 and 8288-A submitted by the buyer should be attached to Form W-7).

4. Where do you send the Form IRS W-7? (ITIN approximately takes anywhere from 5 weeks to 3 months to be assigned)

Mail it to the following address:

Internal Revenue Service ITIN Operation
P.O. Box 149342, Austin, TX 78714-9342

Note: Taxpayer ID numbers are only good for 5 years.



UNDERSTANDING LIVING TRUSTS

Estate planners often recommend “Living Trusts” as a viable option when contemplating the manner in which to hold title. When a property is held in a Living Trust, title companies have particular requirements to facilitate the transaction.

Who are the parties to a Trust?

A typical trust is the Family Trust in which the Husband and Wife are the Trustees and, with their children, the beneficiaries. Those who establish the trust and transfer their property into it are known as Trustors. After their passing, their children and grandchildren usually become the primary beneficiaries if the trust is to survive, or the beneficiaries receive distributions directly from the trust if it is to close out.

What is a Living Trust?

Sometimes called an Inter-vivos Trust, the living Trust is created during the lifetime of the Trustor (as opposed to being created by their Will after death) and usually terminates after they die and the body of the Trust is distributed to their beneficiaries.

Can a Trust hold title to Real Property?

No. The Trustee holds the property on behalf of the Trust.

Is a Trust the best way to hold my property?

Only your attorney or accountant can answer the question; some common reasons for holding property in a Trust are to minimize or postpone death taxes, to avoid a time consuming probate, and to shield property from attack by certain unsecured creditors.

What taxes can I avoid by putting my property in a Trust?

Married persons can usually exempt a significant part of their assets from taxation and may postpone taxes after the first of them to die passes. You should check with your attorney or accountant before taking any action.

Can someone else hold title for me “In Trust”?

Some people who do not wish their names to show as titleholders make private arrangements with a third party Trustee; however, such an arrangement may be illegal, and is always inadvisable because the Trustee of record is the only one who is empowered to convey, or borrow against, the property, and the Title Insurer cannot protect you from a Trustee who is not acting in accordance with your wishes despite the existence of a private agreement you have with the Trustee.

LIVING
TRUSTS

DO YOU NEED
ONE?

**SUMMIT**
ESCROW